

## § 1112.45

third party conformity assessment body; or

(3) Failure to satisfy necessary requirements described in §1112.13, such as ISO/IEC 17025:2005(E) accreditation by a ILAC–MRA signatory accreditation body for the CPSC scope for which acceptance of accreditation is being sought.

(b) The CPSC’s denial of an application will follow the process described in §1112.51.

### § 1112.45 What are the grounds for suspension of CPSC acceptance?

(a) The CPSC may suspend its acceptance of a third party conformity assessment body’s accreditation for any portion of its scope when the third party conformity assessment body fails to cooperate with an investigation under section 14 of the CPSA. A third party conformity assessment body “fails to cooperate” when it does not respond to CPSC inquiries or requests, or it responds in a manner that is unresponsive, evasive, deceptive, or substantially incomplete, or when it fails to cooperate with an investigatory inspection under §1112.27.

(b) Suspension lasts until the third party conformity assessment body complies, to the satisfaction of the CPSC, with required actions, as outlined in the notice described in §1112.51(b), or until the CPSC withdraws its acceptance of the third party conformity assessment body.

(c) If the CPSC determines that the third party conformity assessment body is cooperating sufficiently with the CPSC’s investigation, the CPSC will lift the suspension. The suspension will lift as of the date of the CPSC’s written notification to the third party conformity assessment body that the CPSC is lifting the suspension. The written notification may be by electronic mail.

### § 1112.47 What are the grounds for withdrawal of CPSC acceptance?

(a) A manufacturer, private labeler, governmental entity, or other interested party has exerted undue influence on such third party conformity assessment body or otherwise interfered with or compromised the integrity of the testing process.

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(b) The third party conformity assessment body failed to comply with an applicable protocol, standard, or requirement under subpart C of this part.

(c) The third party conformity assessment body failed to comply with any provision in subpart B of this part.

### § 1112.49 How may a person submit information alleging grounds for adverse action, and what information should be submitted?

(a) *Initiating information.* Any person may submit information to the Commission, such as by writing to the U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, or by sending electronic mail to: *labaccred@cpsc.gov*. The submission must allege that one or more of the grounds for adverse action set forth in this part exists. Any request for confidentiality must be indicated clearly in the submission. The submission should include:

(1) Contact information, including a name and/or a method by which the CPSC may contact the person providing the information;

(2) Identification of the third party conformity assessment body against whom the allegation is being made, identification of any officials or employees of the third party conformity assessment body relevant to the allegation, and contact information for such individuals.

(3) Identification of any manufacturers, distributors, importers, private labelers, and/or governmental entities relevant to the allegation. The submission also should identify any officials or employees of the manufacturers, distributors, importers, private labelers, or governmental entities relevant to the allegation, and contact information for such individuals.

(4) Description of acts and/or omissions to support each asserted ground for adverse action. Generally, the submission should describe, in detail, the basis for the allegation that grounds for adverse action against a third party conformity assessment body exists. In addition to a description of the acts and omissions and their significance, a description may include: dates, times, persons, companies, governmental entities, locations, products, tests, test

results, equipment, supplies, frequency of occurrence, and negative outcomes. When possible, the submission should attach documents, records, photographs, correspondence, notes, electronic mails, or any other information that supports the basis for the allegations;

(5) Description of the impact of the acts and/or omissions, where known.

(b) *Review of initiating information.* Upon receiving the information, the CPSC will review the information to determine if it is sufficient to warrant an investigation. The CPSC may deem the information insufficient to warrant an investigation if the information fails to address adequately the categories of information outlined in paragraph (a) of this section.

**§ 1112.51 What are the procedures relevant to adverse actions?**

(a) *Investigation.* (1) Investigations under this part are investigations into grounds for an adverse action against a third party conformity assessment body.

(2) The Commission will use its *Procedures for Investigations, Inspections, and Inquiries*, 16 CFR part 1118, subpart A, to investigate under this part.

(3) An investigation under this part may include any act the CPSC takes to verify the accuracy, veracity, and/or completeness of information received in connection with an application for acceptance of accreditation, a submission alleging grounds for an adverse action, or any other information received by the CPSC that relates to a third party conformity assessment body's ability to become or remain a CPSC-accepted third party conformity assessment body.

(4) The CPSC will begin an investigation under this part by providing written notice, which may be electronic, to the third party conformity assessment body. The notice will inform the third party conformity assessment body that the CPSC has received information sufficient to warrant an investigation, and it will describe the information received by the CPSC and the CPSC's investigative process. The notice also will inform the third party conformity assessment body that failure to cooper-

ate with a CPSC investigation is grounds for suspension under § 1112.45.

(5) The notice sent by the CPSC under § 1112.35(b)(3) informing the third party conformity assessment body that it must submit a CPSC Form 223 for audit purposes, which may be electronic, constitutes notice of investigation for purposes of this section. The examination portion of an audit under § 1112.33(c) constitutes an investigation for purposes of this section.

(b) *Initial notice.* If, after investigation, the CPSC determines that grounds for adverse action exist and proposes to take an adverse action against a third party conformity assessment body, the CPSC will notify the third party conformity assessment body, in writing, which may be electronic, about the proposed adverse action. If the proposed adverse action is suspension or withdrawal, the notice formally begins a proceeding to suspend or withdraw, as described in section 14(e) of the CPSA. The notice will contain:

(1) The proposed adverse action;

(2) Specific grounds on which the proposed adverse action is based;

(3) Findings of fact to support the proposed adverse action;

(4) When appropriate, specific actions a third party conformity assessment body must take to avoid an adverse action;

(5) When the proposed adverse action is withdrawal, consideration of the criteria set forth in paragraph (d)(1) of this section;

(6) The time period by which a third party conformity assessment body has to respond to the notice. In general, the notice will inform the third party conformity assessment body that it has 30 calendar days to respond. A third party conformity assessment body may request an extension of the response time, but they must explain why such an extension is warranted and the amount of additional time needed for a response; and

(7) Except under § 1112.53, a CPSC-accepted third party conformity assessment body may continue to conduct tests for purposes of section 14 of the CPSA until a Final Notice of adverse action is issued.